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IMPLEMENTATION OF ARTICLE 21 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Analysis of articles 7 and 8 of the Convention

Report by the secretariat

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INTRODUCTION

1. The Committee on the Elimination of Discrimination against Women decided at its tenth session that it should prepare comments on particular articles of the Convention which would assist in the formulation of the Committee's general recommendations relating to those articles, in accordance with article 21 of the Convention.

2. The Committee decided to analyse articles 7 and 8 of the Convention at its thirteenth session in 1994.

I. BACKGROUND

3. The terms of reference of the Commission on the Status of Women, formulated at its first session in 1947 (document E/90 of 1 July 1946), emphasized that its function is to "prepare recommendations and reports for the Economic and Social Council on promoting women's rights in political, economic, social and educational fields" with the objective of implementing the principle that men and women shall have equal rights, and to develop proposals to give effect to such recommendations. The aims of the Commission stressed women's equal participation in Governments and possibility to exercise all rights of citizenship, irrespective of race, language or religion, and assume all the duties of a citizen, which comprise: adult universal suffrage, the equal right to vote, to be elected and to hold public office. The Commission further listed other areas essential for women's equality such as civil rights (including marriage, guardianship, nationality, legal capacity, domicile), social and economic rights and education.

4. One of the first outcomes of the work of the Commission was the Convention on the Political Rights of Women of 1952, 1/ which stated explicitly that "Women shall be entitled to vote in all elections on equal terms with men, without any discrimination" (art. 1). They should also, on equal terms with men and without any discrimination, "... be eligible for election to all publicly elected bodies, established by national law" (art. 2) and "... be entitled to hold public office and to exercise all public functions, established by national law" (art. 3).

5. Articles 7 and 8 of the Convention on the Elimination of All Forms of Discrimination against Women constitute a natural extension of the previous work of the Commission on the Status of Women in the area of women's political participation.

6. Article 7 requires States parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the rights to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; to participate in

non-governmental organizations and associations concerned with the public and political life of the country.

7. Article 8 requires States parties to take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

8. Articles 7 and 8 reiterate the principle of equality of women in participation in political life, accepted since 1947 by almost all countries of the world. In addition, they carry two important new dimensions. First, article 7 goes beyond restating the objectives of the Commission formulated at its first session in 1947 and the provisions of articles 1 to 3 of the Convention on the Political Rights of Women, and requires that States parties "... shall take all appropriate measures" to eliminate discrimination in all areas enumerated in article 7. Second, article 8 extends those obligations to the international arena which was not covered explicitly in the previous documents. Both articles 7 and 8 explicitly require an active approach by States in combating discrimination in political and public life, implying an application of specific measures. Thus, articles 7 and 8 should be seen and implemented in the context of articles 3 and 4, calling respectively for "appropriate" and "temporary special" measures aimed at de facto equality in all areas of life.

9. The fact that very few countries have entered reservations to articles 7 and 8 constitutes another confirmation that the principle of equality in political participation is well accepted. The few countries which reserved on those provisions related their reservations to the participation of women in the military service or linked their reservations to traditional practices of inheritance of the crown. For example, Belgium reserved on article 7 as far as its Constitution reserves for men the exercise of royal powers and for the sons of the King or, if there are none, for Belgian princes of the branch of the royal family in line to the throne, the function ex officio of senators from the age of 18, with entitlement to vote from the age of 25. Luxembourg and Spain made reservations on article 7 to the extent that it contradicts their constitutions with regard to the hereditary transmission of the crown. The only reservation based on religious grounds was made by Israel, which reserved on article 7 with regard to the appointment of women to serve as judges of religious courts, since this is prohibited by the laws of some religious communities in Israel.

10. Despite the nearly universal acceptance that women have equal rights to participate in political life and decision-making, the gap between this de jure equality and the de facto situation of women remains perhaps the greatest of all of the components of the Convention. The slow progress in the areas related to articles 7 and 8, which can be seen in other sources, is not reflected in the periodic reports to the Committee. Few States parties have reported on concrete measures meant to combat existing discrimination in the political sphere or to monitor the results of measures. There is a lack of analyses of the obstacles to the participation of women in country reports. Indeed, reporting under articles 7 and 8 has been mainly focused on the existence of non-discriminatory legislation. It is only recently that figures illustrating the percentage of

women in parliaments, governments and occasionally in different decision-making bodies have been provided. Nor has reporting on the participation of women in regional and local legislative and executive bodies; women in various types of ministries; in political parties and trade unions; in the military; as country representatives at the international level (bilateral and multilateral diplomacy) been common.

II. EXERCISE BY WOMEN OF THEIR RIGHTS UNDER ARTICLES 7 AND 8 OF THE CONVENTION

A. Participation in elections, parliaments, governments and other legislative and executive bodies as well as in policy formulation at the national level

11. The lack of equitable participation by women in political decision-making has important consequences for both women and society. It deprives women of important rights and responsibilities as citizens. Women's interests and perspectives cannot be represented and protected at the policy-making levels. Women cannot influence key decisions, which has consequences for the whole society and future generations, for example, on national budgets, major reforms or socio-economic models to be chosen. This situation is not only discriminatory to women, but also disadvantageous to society, which is deprived of women's skills and distinctive perspectives. Existing research shows that if women are represented in large enough numbers in the decision-making arena (constituting what has been termed a critical mass, estimated at a level of at least 30 to 35 per cent in decision-making bodies), they have visible impact on the political style and the content of decisions. For example, in the Nordic countries, the only region where women have achieved a "critical mass" at the policy-making level, owing to pressure exerted by women, issues that had long been ignored such as equal rights, women's control over their own bodies, child care and protection against sexual violence, have gradually been incorporated into public national agendas and reflected in public budgets. Evidence for this has been mobilized in a number of United Nations studies. 2/

12. Women have the right to vote and hold office in almost every country of the world. Although the length of time they have had these rights ranges from 100 years in New Zealand to 13 in Vanuatu, most women have had that right for almost their entire adult lives. Women make up half of the electorate and regularly exercise their right to vote in a proportion which is in general similar to that of men. Despite this, relatively few women have been elected in the democratic process to the national legislatures and even fewer have reached top executive posts. Earlier United Nations studies have suggested that, to a certain extent, countries in which women have been able to stand for election for a longer period of time are somewhat more likely to have more women in parliament.

13. Women's participation in parliaments is closely linked to the participation of women in political parties and the role of women in parliamentary elections, both as voters and candidates. The proportion of women who stand for election is generally low and the proportion of women elected therefore is also low, although this differs from country to country and between regions. Because

voting is secret in most places, there are few data which would indicate whether women's voting patterns are different from men's. Public opinion polling data suggest that, at the margin, women may vote differently than men, but in general women's electoral choices have not differed much from those of men. However, there are recent indications that in some countries women are beginning to vote differently and, in close elections, determine the outcome. Argentina, Colombia, the Scandinavian countries, Austria, Germany and Poland are cases in point. In all those countries women, at least on some occasions, voted differently and gave clear preference to those parties which put forward female candidates, candidates clearly representing women's interests and perspectives, especially with regard to women's reproductive rights, social support services or participation in decision-making.

14. The need of parties to compete for votes has led many parties to promote women within their ranks and put them forward as candidates in order to gain the votes of the female electorate. That tactic on the part of some parties has forced other political parties to join in the competition and also put some women in visible positions. For example, the introduction of quotas in the 1980s in all five Nordic countries by a number of political parties induced other parties to put forward some female candidates. Some years later quotas were established by a number of parties in Germany and Austria. For example, in 1986 the Greens incorporated a provision into their constitution according to which at least half of the representation of all bodies and organs of the federal association of the party must be women. In 1988 the Social Democratic Party changed its organizational statutes to the effect that at least 40 per cent of either sex must be represented in the offices and functions of the party.

15. There appears to be a relationship between party rules, habits, structures, internal policies and the situation of women within the party. Factors such as openness and flexibility of structures, age limits and the incompatibilities of certain political positions proved to be favourable to the increased participation of women. Where women are equitably or favourably represented in party structures and promoted as candidates the proportion of women elected to parliament is similarly high. The situation of women is also affected by how candidates are chosen, either by local bodies or at the national level, as well as by the electoral system, either single-member district or a party list.

16. According to the latest systematic data of the Inter-Parliamentary Union (30 June 1993) the average participation of women in national parliaments world wide has declined from 13 per cent in 1989 to 10.3 per cent (single or lower chambers, based on analyses of 171 countries). In other chambers of parliaments the proportion of women is even lower and constitutes 8.6 per cent. The 10 countries with the highest percentage of women parliamentarians are: Seychelles (45.8 per cent); Finland (39.0 per cent); Sweden (33.5 per cent); Norway (39.0 per cent); Denmark (33 per cent); Netherlands (29.3 per cent); Iceland (23.8 per cent); Cuba (22.8 per cent); Austria (21 and 20 per cent) and China (21 per cent). The country-specific figures are changing as a result of more recent elections. The sharpest drop in the average parliamentary representation took place in the Eastern European countries and the former Union of Soviet Socialist Republics, from 26.6 per cent in 1987 to 10.8 per cent in 1990. This dramatic change is the major factor in the decline of the

international average and signals a significant shift in priorities in this part of the world. The paradox of the diminished women's participation in those countries as the outcome of free elections and democratization processes should be given serious consideration. In terms of regional distribution of seats in parliaments in 1990 the highest proportion of women was in countries of the Western European and Other group (14.3 per cent), followed by Eastern Europe (10.8 per cent) and Latin America and the Caribbean (9.3 per cent), with the lowest of Africa (7.2 per cent) and Asia and the Pacific (5.5 per cent).

17. A number of studies published in the late 1970s and 1980s point to the discrepancy in the distribution of female representatives between urban and rural areas within regions. For example, in cities with a population over 30,000 in France the participation of women elected to city councils was 20 per cent while in small towns it was 14 per cent; in Germany (the former Federal Republic of Germany) the figures were 14 per cent and 10 per cent respectively; in Sweden 50 per cent for Stockholm and 14 per cent for smaller towns. Large towns contain a greater number of politically active women than villages, where there is often a shortage of female candidates with broad professional backgrounds and experience and where the prejudice against women in public life is often stronger. The same tendency emerges with regard to local governments.

18. Reports to the Committee on the Elimination of Discrimination against Women, however, indicate that women have usually been more successful in winning places on local representative bodies than in national parliaments. In 10 out of 12 countries which reported on the subject (Argentina, Belarus (then the Byelorussian Soviet Socialist Republic), Colombia, Hungary, Jamaica, Mexico, Mongolia, New Zealand, Poland, Spain) the percentage in the local representative bodies was higher. One reason may be that local-level activities suit women's working style better and correspond more closely to their daily experience. For many women, community and grass-roots activities become extensions of their private sphere related, for example, to the involvement with the local school or kindergarten and concerns about environmental pollution and criminality in the neighbourhood.

19. In governments on average, at the end of 1990, only 4 per cent of cabinet ministers were women. The highest average percentage of women at the ministerial level was in the Western European and Other group of countries (7.5 per cent), followed by Latin America and the Caribbean (5.5 per cent). The lowest average participation was in Asia and the Pacific (2.2 per cent) and Africa (2.9 per cent). Women held no ministerial positions in 93 countries. When the four highest executive levels are considered (minister, vice-minister, secretary of state and director) women constituted 4.9 per cent world wide, with the highest levels in Latin America and the Caribbean (8.1 per cent) as against 7 per cent in the developed regions, 2.6 per cent in Asia and the Pacific and 3.4 per cent in Africa.

20. Among ministers and at the top four executive levels, women continued to be concentrated in social ministries (culture, social affairs, women's issues, education, social welfare). Women were almost absent from those positions in executive offices of heads of States and governments, foreign affairs, interior, defence, economic and legal affairs.

21. In the whole history of democratic elections only 21 women have been elected as head of State or Government in independent countries. They include presidents of the Philippines, Iceland,* Nicaragua,* Haiti, Bolivia, Argentina and Ireland;* and prime ministers of the United Kingdom of Great Britain and Northern Ireland, Burundi,* Dominica,* France, Norway,* India, Sri Lanka, Israel, Portugal, Poland, Pakistan,* Canada, Turkey* and the former Yugoslavia.

B. Participation in international decision-making

22. The Convention was the first international instrument which clearly addressed the issue of the participation of women at the international level as delegates and representatives of their own countries and in international organizations. Although discrimination in this area was striking there have been very few surveys on the subject. Research by the Division for the Advancement of Women showed, for example, that the permanent missions to the United Nations in New York, in 1989, had only 337 women in the diplomatic staff, out of a total of 1,695 (20 per cent). Sixty missions had no women among their diplomats. Only eight women held the rank of ambassador. These figures are being updated, but initial evidence suggests little change. The situation is similar or worse in specialized meetings that establish global goals and priorities. For example, at the first session of the ad hoc committee of the whole for the preparation of the International Development Strategy for the Fourth United Nations Development Decade, held at the United Nations Headquarters from 5 to 16 June 1989, there were 20 women delegates out of a total of 210 (9.5 per cent) and in 65 delegations out of 89 there were no women. The underrepresentation of women in those positions results from women's absence from the high positions in foreign affairs, the military and defence, as well as the top positions in the national civil service, as the appointees to those posts come through outside lateral recruitment.

23. The increasing internationalization of the contemporary world makes the employment of women in international organizations, whether governmental or non-governmental, more important. Governmental organizations of the United Nations system and various economic, political and military structures at the regional level became important international public employers. It is striking that in those organizations women are still in the minority and are concentrated at the lower levels, in supportive jobs. Even in the United Nations, which is expected to create a model for national public services, participation of women is low, although improvement is taking place. Prior to the first review and appraisal of the Nairobi Forward-looking Strategies for the Advancement of Women, in December 1988 women constituted 28 per cent of Professional employees of the United Nations Secretariat, but only 5.2 per cent among its senior managers (D-2 and above). In the entire United Nations system (including its specialized organizations) women constituted 23 per cent and 3.6 per cent respectively. The new Secretary-General, Boutros Boutros-Ghali; called for a 50/50 gender breakdown among higher management staff by 1995 and appropriate administrative instructions were issued. As of 30 June 1993 women constituted

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* Current.

31.3 per cent of the Professional employees on the posts subject to geographic distribution and 14.3 per cent of under-secretaries-general, 6.7 per cent of assistant secretaries-general and 14.3 per cent of D-2s.

24. The question as to why the representation of women in the Secretariat has been and is so unequal has been discussed within the United Nations for some time. The Steering Committee for the Improvement of the Status of Women in the Secretariat, appointed by the Secretary-General, concluded that women on average have spent longer periods in the same grade before promotion; have had their level of initial appointment at a lower level; may not have been given the kind of varied career deemed necessary for promotion to management levels; have faced negative attitudes from supervisors and heads of departments about the promotion of women; and have had insufficient access to training programmes, attendance at substantive meetings, duty travel and temporary assignments. Women have been recruited mainly into occupational categories such as general administration, library, language- and women-related posts, where career patterns are limited by the existing grade structure. The situation of female Professionals in the Division for the Advancement of Women, which has one of the worst current records for the promotion of women in the entire United Nations system, is a case in point. Thus, women have hardly been represented at the senior management levels from which the Secretary-General draws top managers.

25. However, recent progress can be noted at the level of middle and senior Professional posts. This has resulted from a number of steps to achieve affirmative action in recruitment and promotion. In 1991, the Secretary-General endorsed the measures recommended in the fifth report of the Steering Committee for the Improvement of the Status of Women in the Secretariat (ST/SGB/237). The report set forth new targets of 35 per cent for women in posts subject to geographical distribution by 1995, and 25 per cent in posts at the D-1 level and above by 1995. In those departments which have not met those targets, vacancies should be filled, when there are one or more female candidates whose qualifications match all the requirements for a vacant post, with one of those candidates. Recruitment should follow the same pattern. The exceptions relate to cases when the post is filled through a competitive examination or where the post has been vacant for 18 months (since 1992, 12 months) and despite the best efforts there are no female candidates.

26. Administrative instruction ST/AI/382 of 3 March 1993 endorsed all previous decisions related to the improvement of the status of women in the Secretariat and further decided to increase the pool of qualified women through consideration of all qualified women currently in the service of the Organization under any type of appointment or as consultants with at least one year experience in the United Nations system, as internal candidates. All recommendations for filling posts must be accompanied by the explanation of how they would affect the representation of women. The cumulative seniority provisions endorsed by the Secretary-General in 1986 should be applied. Other measures which are still in force include a publicity and information campaign; development of rosters of suitable candidates for various types of posts; identification of female candidates for national competitive examinations, especially in regions with low proportions of female staff members, as well as suitable candidates for higher posts; monitoring of promotion, reclassification and redeployment procedures; creation of special posts to monitor the

recruitment and career development of women in the Secretariat; issuance of policy guidelines on the creation of conditions conducive to the full integration of women in the Secretariat; and the institution of a number of measures designed to overcome past inequalities.

27. The affirmative action programme undertaken by the United Nations provides some guidelines to other international organizations as well as Governments at the national level, with regard to the civil service careers. The elaboration and adoption of the proper rules of the international civil service should enable the organizations to avoid gender discrimination in both recruitment and career development patterns, as well as avoid existing national barriers in this respect.

C. Women in the military

28. The accessibility of the military service to women has rarely been reported on by the States parties to the Convention. Some countries, however, have made reservations to various provisions of the Convention, including its articles 7 and 8, with regard to the participation of women in the military service. For example, Australia made a general reservation on the applicability of the Convention as far as it would require alteration of its defence force policy which excluded women from combat and combat-related duties. However, discussions aimed at defining those duties are under way in Australia. Austria reserved on article 7 (b) as far as service in the armed forces is concerned. Germany considered this article invalid to the extent that it contradicts the constitution of Germany which bans women from service involving the use of arms. New Zealand reserved the right not to apply the provisions of the Convention in so far as they are inconsistent with policies relating to recruitment into or service in the armed forces, in particular the requirement to serve on armed forces aircraft, vessels and in the situations involving armed combat, or in situations involving violence or the threat of violence. Thailand reserved that article 7 of the Convention can be applied only within the limits established by its national laws, regulations and practices, as far as national security, maintenance of public order, service and employment in the military or paramilitary are concerned.

29. The military is important to women in their role as citizens. However, many men and women think it is "men's business". The historical reservation of military roles to men is largely the result of social construction. It has been argued that military service is built into male rites, maintaining the separation between men's and women's roles and stereotypes as "the protectors" and "the protected". What is often overlooked is that the military is an integral part of any political system: Governments have a military; economic dependence on the military is widespread. The military varies widely. In some countries it is understood to have a domestic function, in other countries to provide for the country's security against outsiders. In the democratic systems, the military is subordinated to the elected Government. In other countries it may control the Government.

30. Since the military constitutes an important element of State order, decision-making and governance, all citizens should be concerned about the kind

of military they have. By being outside the military, women cannot be involved in the decisions related to the use of military forces, changes in the military institutions and overall control over its performance. The military accounts for a large portion of public expenditure, constitutes an important employer and provides career opportunities and training, which can often lead to other than military careers as well.

31. No systematic country data exists on women in the military. The largest amount of data exists on the States members of the North Atlantic Treaty Organization (NATO) and the Western European Union. 3/ Half of those countries have legislation or policies excluding women from combat, although women's service has been encouraged and is for the same length of time and the same pay and includes the same training and discipline as that of men. Most rules permit pregnant women to remain in military service; most provide paternal or maternal leave and half provide child care; most limit the rank that women can achieve. Differing rules do not seem to have an impact on participation rates. For example, Canada, which has an egalitarian approach, has only 12 per cent of women in the military. The United States, which prohibits women's service in combat, has 11 per cent. In 5 of the countries the participation is 2 to 4 per cent; in 8 of the 15 it is negligible.

32. Research in 45 other countries shows that only in 3 countries do women make up more than 10 per cent of service members. In most countries women perform different functions. Even in countries where women can serve as regular members of a State military, there is usually a restriction on combat. Israel, where service is mandatory for women, is a case in point. In only a few countries is the combat role open. They include Belgium, Canada, Luxembourg, the Netherlands, Norway, Venezuela and Zambia. No detailed information is available on the two latter countries. In four of the other five the total number of women serving is a little over 1,000 per country. A majority of them are not in combat units. Canada represents the major experiment: it has recently removed all restrictions based on gender except for service in certain submarines. Women represent 12 per cent of those on active duty and 20 per cent of the reserves, but few are in combat specialities. The principal opening for women officers is as medical personnel. Enlisted women serve in clerical and administrative positions.

33. The issue of the participation of women in the military takes on a particular meaning in peace-keeping, the main purpose of which is to avoid or to defuse conflict in order to permit a peaceful solution. The absence of women among military personnel in United Nations peace-keeping forces reflects the absence of women in the military of those countries which provide troops to the peace-keeping operations. Women, however, have been active participants of those operations at the civilian level. In December 1992, two of the United Nations peace-keeping operations (Angola and South Africa) were headed by women from the United Nations Secretariat, and a relatively high percentage of civilian monitors, administrators and other personnel seconded from the Professional category were women.

34. As peace-keeping increases in importance, the question will need to be raised whether the exclusion of women from many peace-keeping tasks is acceptable. Given the fact that peace-keeping differs in many ways from the

traditional military and involves characteristics related to conflict resolution, an increased presence of women could make some difference.

III. OBSTACLES TO IMPLEMENTATION

35. In general, the reports of States parties to the Committee do not provide analyses of obstacles to the political participation of women. Thus, obstacles have been identified and analysed in the number of documents prepared by the Division for the Advancement of Women. Major obstacles are identified in the Nairobi Forward-looking Strategies for the Advancement of Women. 4/ They include the prevailing unequal division of household duties, the provision of child care and care for the elderly, economic dependency and the prevailing inequality in almost all spheres of life, including violence against women as its extreme form. Those obstacles particularly hinder the participation of women in political life.

36. Women's double burden, combined with the long and non-flexible time requirements of political parties and parliaments, prevent women from being more active in political participation. Prevailing negative attitudes towards women's political participation and a lack of confidence and support for female candidates on the part of the electorate, including women, constitute another obstacle. In addition, some women do not like to take part in politics, which they consider distasteful, and do not wish to be subjected to political campaigns and media stereotyping, including the application to them of different criteria than men. The absence of women in professions from which politicians are recruited (lawyers, university teachers, political scientists) can create another handicap.

37. A civil service career offers another possibility for women to rise to decision-making levels. The data on the subject is limited, but it shows constraints on the participation of women at the senior levels of the civil service, owing to specific obstacles. These obstacles include: a lack of adequate recruitment and promotion mechanisms which prevent women from entering the civil service at levels corresponding to their qualifications and from being promoted without discrimination; the prevalence of "closed" recruitment and promotion systems, often based on patronage, without clear requirements to entry or promotion; bias in job evaluation and classification; insufficient appeal mechanisms and a general absence of women from appeal bodies as well as selection, appointment and promotion panels; unequal opportunities for career and training development; the marginalization of women in some areas of the civil service traditionally considered as related to women, or in positions intended to implement affirmative action policies.

IV. FACTORS CONDUCIVE TO THE INCREASED PARTICIPATION OF WOMEN

38. An examination of the characteristics of those countries where women have an above-average level of participation suggests several factors that might be related to better access. 5/ One of them is the positive correlation between the percentage of women in parliaments and in high-level government positions,

in particular in ministerial-level positions. This means that there is an interdependency between the number of women in parliaments and governments, which is partly influenced by the situation in the Western industrialized countries where the parliament is a major source of recruitment of ministers.

39. Another factor is education, in particular at the university level. Since most political leaders are recruited from the educated and professional groups, the ratio of women to men in enrolment in third-level education in 1970 is reflected by the higher proportion of women in decision-making in parliaments and Governments in 1987. The extent to which women will be able to participate in politics is also linked to the participation of women in the formal economy. Despite regional variations, women are more likely to be in parliament in those countries where women are also in the workplace. The type of employment that women typically have is also important. Two types of occupation are particularly important in this context: professional or technical and administrative or managerial. There are also some professions from which top decision makers are recruited: lawyers, "professional" politicians, leading journalists and academics specialized in relevant fields.

40. Other important factors relate to the general status of women in the country and access to power and high-level decision-making. For example, the highest proportions of women in parliaments are found in the countries where women had the right to vote before 1940; in the countries with a long tradition of democracy, political competition, concern for women's legal rights, open attitudes to discussing women's issues, a tradition of respecting women's right to free choice in all spheres of life and a high level of legal literacy and knowledge of women's reproductive rights. One more important correlation should be noted, namely between the participation of women in decision-making and adherence to the Convention. Countries that have signed or ratified the Convention without religious or cultural reservations have higher average percentages of women in decision-making, whether in governments or parliaments.

V. TEMPORARY MEASURES

41. Article 4 of the Convention states that "adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved". Articles 7 and 8 refer implicitly to article 4, when they state that the State parties should undertake "all appropriate measures" to eliminate discrimination.

42. General recommendation 5, adopted in 1988 in relation to article 4, concluded that "States parties should make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into ... politics". A review of the reports of States parties to the Convention suggests the variety of approaches that exist.

43. A few States recognize positive action as lawful in their constitutions (Greece) and other basic acts (Sweden). In Austria, France and Belgium, public

authorities have taken a number of measures to promote equal opportunities for women in the civil service. In Austria, programmes to promote women in politics and in managerial posts were established. As a result, some progress has been noted with regard to the number of women in decision-making, in particular in rural decision-making bodies. In France, according to a 1982 act, special instructions were issued to public service departments pointing out that both sexes should be represented at the selection boards; diversified promotion criteria should be established in order to ensure real equal opportunities; and job descriptions should not discourage either potential male or female candidates. In the United Kingdom, experiments have taken place at the local level of government focused on changing recruitment and selection procedures; training; promotion and career policies; personnel policy; as well as changing the mentality of the people in charge, in particular the women themselves, and the trade unions. In Austria, Sweden, Portugal, the United Kingdom of Great Britain and Northern Ireland and Norway, positive action programmes also include measures aimed at increasing public awareness, changing attitudes and behaviour concerning equality and gender.

44. In some countries special measures and programmes have been introduced that aim at a qualitative and quantitative increase in women's political participation. They targeted political parties, parliaments, trade unions, governing boards of various institutions in the public sector and the civil service. The political parties in some countries established percentage quotas for women, including their governing bodies (i.e. Austria, Germany, Denmark, Sweden, Norway, Iceland, Finland, the Netherlands, Venezuela, Spain, Israel). Some parties introduced women's sections to promote women's interests (Cameroon, Canada, Gabon, Japan, Mexico, Rwanda, Spain, Sri Lanka, Zimbabwe). These measures are controversial and according to some sources contribute to women's alienation within political parties rather than to an increase in their role through training and the elaboration of women's strategies. Other measures included special recruitment campaigns for women in political parties (i.e. Ecuador, Fiji, India, the Netherlands, Spain, United Kingdom of Great Britain and Northern Ireland). Similar campaigns were organized by trade unions in those countries.

45. Other regulations included quotas reserving a minimum number of seats in parliaments to women. Such a regulation was practised in the past in Egypt and is applied in Argentina (at least 30 per cent in the Parliament) and in Tanzania (at least 15 per cent in the Parliament and 25 per cent in local councils). In Bangladesh special measures have been taken to introduce a female quota in local bodies and in the Parliament. Efforts have been made to elaborate laws that would include parity quotas in the selection of candidates for office in Costa Rica and Argentina. The Argentinian experience has been particularly positive: it has led to a significant increase in the representation of women in Parliament in the most recent elections, in all of the major parties.

46. The most prominent example of high participation of women in decision-making, according to most indicators, is provided by Norway. Norway has a strong tradition of group representation and bargaining in politics. The acceptance of the fact that women have specific interests and that traditional "women's issues" belong on public agendas led to the recognition of the need for having those issues and interests represented by women themselves.

Consequently, women became a part of the negotiating process taking place in Parliament and other public bodies where different interest groups met and decided on power-sharing and organization-based influence. The demand of women for a fair share of power led to an alliance between organizations and groups outside the political parties and in women's factions within parties, the objective being to increase women's representation.

47. In 1970, after a series of campaigns in connection with national and local elections, there was what was termed a "women's coup", which resulted in a majority of women being chosen to serve on three large local councils, including the Oslo council. Although that majority did not last long it demonstrated the power of women's coordinated action; it proved that common women's concerns exist and that they need to be articulated by women on behalf of women.

48. Since then, women's issues have been further strengthened on the national and local agendas, gender has been accepted as a politically relevant category, certain traditional care services performed by women have been transferred to the State and paid from its budget and quotas for women have been introduced in public commissions and boards, as well as some political parties. The 1988 revision of the Norwegian Equal Status Act of 1981 provided that in public commissions and boards each sex should be represented by at least 40 per cent of the members and that in committees with less than four members, both sexes should be represented. The result was that at present women constitute 35 per cent of all public boards and commissions (compared with 7 per cent in 1967 and 17 per cent in 1977) and hold half of the ministerial posts in the Government of Prime Minister Gro Harlem Brundtland.

49. The practice followed in Norway of setting gender quotas for boards and committees was also introduced in the 1980s in other Nordic countries. That action has led to an increase in the proportion of women. In the case of Denmark, for example, the proportion increased from 9 per cent in 1975 and 1980, to 38 per cent in 1990. In Finland, after the adoption of the 1986 Equality Act, both men and women have to be elected to all municipal bodies, in addition to governmental committees, with the representation of at least 40 per cent of each gender. In Sweden, the Bill on Equality Policy has established goals of 30 per cent of women on the boards of public bodies and committees by 1992, and 40 per cent by 1995.

50. The successful application of quotas in the Nordic countries should be seen in the context of that region, where such values as justice, equality and the proper representation of group interests were rooted in political tradition, where women's status and rights were well-established, where there was an awareness of women's issues and of the priority of such issues on public agendas. Under those circumstances, the introduction of quotas as a result of conscious and consolidated action by women brought rapid results and helped to remove the effects of past discrimination in some areas of political participation.

51. There are, however, situations where quotas can be perceived rather as a ceiling or viewed as a non-democratic measure. For example, in Belgium, the majority of the traditional parties introduced quotas under the pressure of women's sections of those parties. As a result, a minimum presence of women was

ensured in the party organs. Afterwards, however, the situation did not develop any further. There is the experience of Egypt, where reserved seats for women in Parliament led to the abolition of the provision. In the former Eastern European countries, the high participation of women in parliaments resulted from the concept of interest-group representation at the parliamentary level. Thus, workers, women, youth and all professional groups which accepted the principle of the leading role of the communist party and its uncontested impact on key decisions were supposed to have a certain percentage of seats. With the abolition of those political systems, the concept of group representation was dismissed and women's interests and issues denied, often even being viewed as part of the old ideology. De facto quotas for women vanished, leading to a rapid decrease in the participation of women in parliaments.

52. In general, the introduction of quotas as a form of affirmative action remains a controversial measure. Its opponents question its limiting character and non-democratic nature. Its supporters consider it the most efficient measure they have used. There is, however, an increasing consensus that corrective mechanisms are needed to redress the prevailing inequalities and discrimination in political participation and that some form of affirmative action should be taken.

VI. CONCLUSIONS

53. Two sets of recommendations can be made. The first one relates to concrete measures which should be undertaken in implementing articles 7 and 8 of the Convention. The implementation should focus on actively combating discrimination against women in all areas of political participation specified by the Convention. Member States are obliged to take measures to redress the situation and those measures should be designed in connection with articles 3 and 4. Since discrimination in this area prevails owing to a discrepancy between the de jure and de facto situation of women, the focus should be placed on the fastest and most efficient measures available to bridge this gap. Existing affirmative action measures, quota systems and successful national experiences should be reviewed with the objective of implementation, to the extent possible, by other countries.

54. All factors which are considered conducive to the participation of women in politics should be reinforced, including education and employment. However, much more emphasis should be given to the kind of education which young people receive. Sex- and job-related stereotypes should be eliminated from the curricula, teaching programmes and mass media; girls and young women should be encouraged to join in politics and to develop skills useful in public life. Education should also be aimed towards raising the awareness of future generations of prevailing gender discrimination and the need to eradicate it; it should focus on freedom of choice in all spheres of life for both boys and girls; and stress the value of equality of opportunity and partnership relations between people. Special attention should be given to the organization of civic education, stressing the obligations and the rights of citizens of both genders.

55. At the conceptual level, the notion of democracy should be further discussed and developed to include a gender component. The question should be

raised whether societies and countries can really be called "democratic" if women are excluded from decisions determining their future. In this context, all available statistics on the participation of women in public life and decision-making should be broadly and regularly publicized. Attempts should be made to reflect the state of the art in all areas related to political participation, through provision of gender statistics, information on adopted policies, their implementation and effects.

56. Periodic reports to the Committee should be much more focused on the appropriate measures which have been undertaken by States and their concrete results. In addition, the latest statistical information extended to all areas relevant to the political participation of women should be prepared on the premise that the very right of participation is well established and not controversial. Thus, action aimed at radical change in the prevailing disparity is the key issue which should be both addressed and reported on.

Notes

1/ Resolution 640 (VII), annex.

2/ Report of the Secretary-General on the priority themes: Equality: Equality in political participation and decision-making (E/CN.6/1990/2); report of the Secretary-General on the priority themes: Peace: Equal participation in all efforts to promote international cooperation, peace and disarmament (E/CN.6/1992/10); Women in Politics and Decision-making in the Late Twentieth Century (United Nations publication, Sales No. E.91.IV.3).

3/ Data assembled for the report of the Secretary-General on women in the peace process (E/CN.6/1993/4).

4/ Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

5/ Reported in Women in Politics and Decision-making in the Late Twentieth Century (United Nations publication, Sales No. E.91.IV.3).

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IMPLICATIONS OF THE PRIORITY THEMES OF THE THIRTY-EIGHTH SESSION OF THE COMMISSION ON THE STATUS OF WOMEN

INTRODUCTION

1. The Committee on the Elimination of Discrimination against Women, at its tenth session, requested the Secretariat to prepare, for each session of the Committee, for its information, a report on the implications for its work of the priority themes prepared, or under preparation, for the consideration of the Commission on the Status of Women.

2. The Commission on the Status of Women at its thirty-sixth session, selected the priority issues to be considered by its next four sessions (thirty-seventh to fortieth) under the agenda item "Priority themes". This decision was endorsed by Economic and Social Council resolution 1990/15 of 15 May 1990. Since 1988, the Commission has dealt with three themes at each session, one under each of the three objectives, equality, development and peace.

3. The reports prepared under the priority themes often include substantive material related to the Convention on the Elimination of All Forms of Discrimination against Women. The themes to be considered by the Commission on the Status of Women at its thirty-eighth session in 1994 include:

(a) Equality

Equal pay for work of equal value, including methodologies for measurement of pay inequities and work in the informal sector;

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* CEDAW/C/1994/1.

(b) Development

Women in urban areas: population, nutrition and health factors for women in development, including migration, drug consumption and acquired immune deficiency syndrome;

(c) Peace

Measures to eradicate violence against women in the family and society.

I. EQUALITY: EQUAL PAY FOR WORK OF EQUAL VALUE, INCLUDING METHODOLOGIES FOR MEASUREMENT OF PAY INEQUITIES AND WORK IN THE INFORMAL SECTOR

4. The Economic and Social Council presented in resolution 1990/15 its recommendations and conclusions arising from the first review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the year 2000. The resolution stated that:

> "... Governments and other appropriate parties ... should renew their efforts to close the gap between women's and men's pay ... for work of equal value. ... The United Nations system should complete work on methodological aspects of measuring pay inequities between women and men ...".

5. The Convention on the Elimination of All Forms of Discrimination against Women, in its article 11, specifies that:

> "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: ... (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work ...".

6. To examine the theme, the Division for the Advancement of Women arranged with the International Labour Organization (ILO), Employment and Development Department, to prepare a study of the question.

7. The study notes that the concept of equal pay has been the subject of international treaties for a long time. The ILO Convention No. 100 of 1951 1/ concerning Equal Remuneration for Men and Women Workers for Work of Equal Value states, moreover, that each Member shall "ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value". It reaffirms the principle of equal pay and equal treatment for work of equal value. It refers to part-time workers, piece-workers and out-workers as well as full-time workers.

8. Specific international instruments dealing with this issue include Recommendation 1951 (No. 90) 2/ which envisages a number of measures to be taken to promote, ensure, encourage or facilitate "the application of the

principle of equal remuneration for women and men workers for work of equal value".

9. The pattern of unequal remuneration is international, although the level of inequality varies from place to place. Everywhere women are paid less than men. The ratio of female wages to male wages tends to be about 60 to 70 per cent in industrialized countries. According to data for the manufacturing sector from the Yearbook of Labour Statistics, published by the ILO, this ratio ranges from around 50 to 90 per cent for 1990. The main factor in this pattern seems to be the segregation of women in certain occupations. The report shows that there is an occupational concentration of women in what are frequently less attractive positions in terms of pay, status and opportunity for professional and technical advancement.

10. The report notes a number of gender biases in the way value is assigned to work, which reinforces occupational segregation. It notes that job evaluation methods currently in use are not gender neutral. It applies the analysis to the informal sector.

11. In terms of policies to reduce wage differentials, it is suggested that equal employment opportunity policies can seek to reduce occupational segregation by prohibiting discrimination in the various phases of employment. Facilitating policies are another type of measure, based on effecting non-labour factors resulting in pay inequalities (e.g., access to land, credit, education, family planning and other community services).

II. DEVELOPMENT: WOMEN IN URBAN AREAS: POPULATION, NUTRITION AND HEALTH FACTORS FOR WOMEN IN DEVELOPMENT, INCLUDING MIGRATION, DRUG CONSUMPTION AND AIDS

12. The Economic and Social Council, in its resolution 1990/15, found that the issues of health and nutrition, population and family planning, drug consumption and human immunodeficiency virus (HIV)/acquired immune deficiency syndrome (AIDS) were all important. Urbanization and migration were noted as factors making these issues more difficult to resolve. Accordingly, the Commission on the Status of Women decided to examine the whole set of issues as its priority theme under the rubric of development in 1994.

13. The report of the Secretary-General on the priority theme of development will be based on the results of a seminar on "Women in urban areas" organized by the Division for the Advancement of Women in Santo Domingo from 22 to 25 November 1993.

14. Although article 14 of the Convention provides that "States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development", the Convention does not mention women in urban areas as such. It is implicit that their concerns are covered by the various other articles.

15. The major issue to be considered under the theme is whether urban women are able to benefit from the public services necessary to ensure their health, nutrition and ability to control their own fertility, as well as protect them from the consequences of drug consumption and from the HIV/AIDS pandemic. Implicit is the provision of the necessary public services and policies to allow women to exercise both their productive and reproductive functions.

16. In its examination of the scope and application of the provisions of article 12, CEDAW has focused particularly on ending discrimination against women in national AIDS strategies; General recommendation 15 (ninth session, 1990) calls on States to enhance women's role as care providers, health workers and educators in the prevention of infection with HIV and to give special attention to the subordinate position of women in some societies which makes them especially vulnerable to HIV infection.

III. PEACE: MEASURES TO ERADICATE VIOLENCE AGAINST WOMEN IN THE FAMILY AND SOCIETY

17. The Economic and Social Council stated in its resolution 1990/15:

> "The recognition that violence against women in the family and society is pervasive and cuts across lines of income, class and culture must be matched by urgent and effective steps to eliminate its incidence. Violence against women derives from their unequal status in society.
>
> "Recommendation XXII: Governments should take immediate measures to establish appropriate penalties for violence against women in the family, the work place and society. Governments and other relevant agencies should also undertake policies to prevent, control and reduce the impact of violence on women in the family, the work place and society. Governments and relevant agencies, women's organizations, non-governmental organizations and the private sector should develop appropriate correctional, educational and social services including shelters, training programmes for law enforcement officers, the judiciary and health and social service personnel, as well as adequate deterrent and corrective measures. The number of women at all levels of law enforcement, legal assistance and judicial system should be increased".

18. The Commission on the Status of Women continued to work on the issue and drafted the Declaration on Violence against Women in 1992, which was to be adopted by the General Assembly at its forty-eighth session in 1993. The draft Declaration was influenced by the work of the Committee, whose general recommendation 19 indicated in detail how measures to eliminate violence were inherent in the provisions of the Convention, even though the issue was not explicitly mentioned.

19. The priority theme for the Commission was prepared on the basis of an expert group meeting on Measures to Eradicate Violence Against Women, organized by the Division for the Advancement of Women, in cooperation with the Centre for Women's Global Leadership from 4 to 8 October 1993 at Rutgers University, New Brunswick, New Jersey, United States of America. The expert group meeting

structured its work around the categories found in the draft Declaration on Violence against Women.

20. The expert group reaffirmed that gender-based violence against women occurs in all spheres of private and public life such as in the family, the work place, the community and international and national conflict situations. Gender-based violence hurts, humiliates or engenders fear in women. It may be threatened or inflicted via physical and sexual acts, as well as through psychological abuse.

21. The expert group meeting considered existing national strategies which have been implied in the context of the various manifestations of gender-based violence against women. Such strategies have been framed in accordance with where the violence occurs. The strategies have focused predominantly on legal and service measures. The meeting also considered the value of criminalization of specifically domestic violence. In some cases, the criminal justice response has revictimized individual women, especially women who have been reluctant to cooperate in criminal justice measures and have been incarcerated. Other laws have stressed protection of the victim, but failed to provide the necessary support services.

22. The meeting recommended a variety of measures, intended both to prevent violence and to cope with its effects. It emphasized the need for education and use of the mass media, as well as the development of legal and law enforcement services that are sensitive to the nature of the problem. It made particular reference to violence occurring in situations of armed conflict.

23. The meeting made recommendations for action at the international level, including the terms of reference for the Special Rapporteur on Violence against Women, expected to be named by the Commission on Human Rights. It also made recommendations about how the issue should be addressed by the United Nations programme on crime prevention and criminal justice. It suggested that the issue be built into the training of United Nations peace-keeping personnel, for whom a code of conduct should also be developed.

Notes

1/ International Labour Organization, International Labour Conventions and Recommendations 1919-1981, (Geneva) 1985.

2/ Ibid.

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WAYS AND MEANS OF EXPEDITING THE WORK OF THE COMMITTEE

Report by the Secretariat

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INTRODUCTION

1. At its twelfth session, in 1993, the Committee on the Elimination of Discrimination against Women (CEDAW) decided that the secretariat should prepare every year, as a pre-session document, a report on ways and means of improving the work of the Committee, containing all the information that the secretariat believed was necessary for the discussion on the item arising from the secretariat's experience from the previous year, the comments made by members to the secretariat or developments elsewhere in the human rights regime. It should also contain a list of States parties whose reports could be considered at the subsequent session with a view to geographical representation and order of receipt.

2. The present report contains information based on the discussions that took place during the recent sessions of the Committee, results of the World Conference on Human Rights and developments within the United Nations with regard to secretariat structures, documentation and conference-servicing policies and resource levels.

I. RESERVATIONS TO THE CONVENTION

3. The Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights states that "... Ways and means of addressing the particularly large number of reservations to the Convention should be encouraged. Inter alia, the Committee on the Elimination of Discrimination against Women should continue its review of reservations to the Convention ...". 1/

4. As is the case with other human rights treaties, the Convention on the Elimination of All Forms of Discrimination against Women allows reservations so that a maximum number of States can become parties. However, article 28 of the Convention states inter alia that:

> A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

5. At its twelfth session, the Committee recalled that it had raised the issue of reservations to the Convention at its previous sessions and that, at its eleventh session, it had adopted General Recommendation 20, inter alia, to the effect that in connection with preparations for the World Conference on Human Rights in 1993, States parties should raise the question of the validity and legal effect of reservations to the Convention in the context of reservations to other human rights treaties. It also decided that it "... should support steps taken in common with other human rights treaty bodies to seek an advisory opinion from the International Court of Justice that would clarify the issue of reservations to the human rights treaties and thereby assist States parties in their ratification and implementation of those international instruments ...". 2/

6. No progress has been made in taking steps to seek an advisory opinion. However, the Vienna Declaration and Programme of Action states that "The World Conference on Human Rights encourages States to consider limiting the extent of any reservations they lodge to international human rights instruments, formulate any reservations as precisely and narrowly as possible, ensure that none is incompatible with the object and purpose of the relevant treaty and regularly review any reservations with a view to withdrawing them." 3/

7. The Committee itself regularly raises the issue of reservations with States parties when they present their reports. The Committee raises questions, however, only when the report is presented. States parties can object within the period of a year to reservations entered by other States parties and this has been done in a number of cases. Reservations entered or withdrawn, as well as objections registered, during a given year are reported to the General Assembly in the annual report of the Secretary-General on the status of the Convention. In order to encourage States parties to withdraw reservations, particularly those that do not conform with the criteria set out in the Vienna Programme of Action, the Committee could consider developing orientations for the reporting by States parties on their reservations, particularly toward explaining how they are interpreted. These orientations could be included in the guidelines on reporting adopted by the Committee and circulated to States parties.

II. ADEQUATE TIME TO CONSIDER REPORTS OF STATES PARTIES

8. The Committee's meeting time to receive and examine reports of States parties is limited by article 20 of the Convention, which specifies that the Committee shall meet for two weeks. There is a clear recognition by States Members of the United Nations that the time is inadequate, since by its resolution 1992/17 of 30 July 1992 the Economic and Social Council supported the Committee's request that it be allowed to meet for a three-week period until it eliminated its backlog in considering reports. This support was restated in Economic and Social Council resolution 1993/14 of 27 July 1993. Furthermore, the General Assembly, by resolution 47/94 of 16 December 1992, authorized the Committee to meet for three weeks in 1993 and 1994.

9. Assuming that the Committee completes consideration of the reports of 13 States parties at its thirteenth session, a total of 24 reports of States parties (including combined reports) are pending consideration by the Committee as of 1 November 1993 and have not yet been scheduled. The number will grow over the coming months. For the last several years, the inter-sessional backlog averaged some 39 reports. The States parties whose reports are available to be considered in 1995 are shown in annex I.

10. Achievement of the accepted objective of States parties meeting their treaty obligations on time will mean that it will be impossible, under existing circumstances, for the Committee to consider the reports. With 128 States parties, the Committee would be expected to receive and examine 32 reports per year.

11. The lack of timeliness in considering the reports of States parties is serving as a disincentive for States to report, which is weakening the effectiveness of the Convention. An average of three years passes between receipt of a report by the secretariat and its consideration by the Committee. In the intervening period Governments have often changed, making a new Government responsible for the presentation of a report prepared by its predecessor. Often, the new Government submits supplemental information which is, in effect, a new report. This increases the volume of documentation (and its cost) and leads to complications in framing questions. It should be noted that this supplemental information is a major factor in the increased documentation requirements of the Committee and that the General Assembly is applying greater scrutiny to the conference-servicing requirements, including documentation, of all human rights treaty bodies.

12. One option for dealing with the growing backlog within the mandated meeting time of the Committee is to develop procedures whereby more reports could be considered within the two- or three-week period. The Committee currently follows the general procedures of other human rights treaty bodies in examining reports, based on the "constructive dialogue" with the States parties. For initial reports, it receives a presentation of the report by representatives of the State party and thereafter poses questions. The State party returns at a subsequent meeting to present its answers to the questions and to respond to further questions. Because more than one State party replies to questions at a given meeting, the total time allotted to the consideration of initial reports is one and one half meetings. Because the initial report is considered to be the "baseline" for further monitoring, it has been felt that its consideration deserves additional time. For second and subsequent periodic reports, the Committee makes use of a pre-session working group to formulate questions which are then provided in writing to the State party. The State party then appears and responds to the questions posed by the pre-session working group as well as to further questions. The time allotted to the consideration of a second or subsequent periodic report is one meeting.

13. Based on this procedure, the Committee has scheduled between 13 and 14 reports for a three-week session. For the next (1994) session, six will be initial reports and seven will be second or subsequent. This means that of a total of 30 meetings available, 16 are dedicated entirely to the "constructive dialogue" feature. This is the largest number of reports reviewed in an equivalent time period of all of the human rights treaty bodies.

14. Any effort to reduce the time allowed to a State party to present its report and respond to questions would appear to place the "constructive dialogue" in jeopardy, by making it too perfunctory to explore national implementation experience in any detail.

15. The Committee undertakes, in conformity with article 21 of the Convention, to prepare recommendations to States parties. It has completed a total of 20 recommendations over 12 sessions. The Committee is also expected to make input into relevant world conferences, including the World Conference on Human Rights, the International Conference on Population and Development (1994) and the Fourth World Conference on Women: Action for Equality, Development and Peace (1995). It is further obligated to respond to requests for its views from other human

rights bodies (as when the Commission on Human Rights requested its views on the desirability of requesting an advisory opinion from the International Court of Justice on the status of reservations to human rights treaties). The work of drafting the recommendations and other input mostly takes place outside the regular working hours, but the Committee tries to set aside time to permit discussion. It has set aside eight meetings for this purpose at its forthcoming thirteenth session.

16. Even if the Committee were to completely abandon its responsibilities under article 21 and dedicate the six meetings now set aside for its article 21 function to reviewing additional reports, this would not meaningfully reduce the backlog.

17. The second option is to revise the Convention to permit the Committee to request the meeting time it needs to exercise its responsibilities. It should be recalled that, in its Suggestion 4 on the World Conference on Human Rights, the Committee recommended:

> "... that, with a view to placing the Convention on the Elimination of All Forms of Discrimination against Women on the same footing as other human rights conventions: ... Steps should be taken to amend the Convention to provide adequate time for meetings by eliminating the limitation set out in article 20 of the Convention ...".

The World Conference on Human Rights, however, made no recommendation to that effect.

18. The Committee might wish to make a further recommendation on this issue. It should be noted that two other human rights treaties, the International Convention on the Elimination of All Forms of Racial Discrimination 4/ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 5/ have recently been amended without opening up substantive issues in order to overcome a procedural limitation set out in the treaty itself. By this process, the funding of the treaty monitoring bodies were transferred to the regular budget of the United Nations, rather than from States parties.

III. OVERDUE REPORTS

19. Under the Convention, States are required to make an initial report one year after the Convention has entered into force for it and thereafter every four years, unless the Committee decides otherwise (article 18). This means that the second periodic report is due four years after the initial report was due. The intent was to emphasize the responsibility of States to prepare their initial and subsequent reports promptly and regularly.

20. Most States parties have not been able to adhere to the schedule. The initial report has had the greatest delay. As of 1 November 1993, 38 States parties have not submitted their initial reports and over 20 others are overdue in submitting second and subsequent periodic reports.

21. The issue of overdue reports has been addressed by the Committee in previous sessions and, as a practice, States which have more than one report overdue are permitted to combine them into a single report. This enables States to remove their backlog in reporting and to begin a regular schedule of reporting.

22. The Committee may wish to consider what further steps might be taken to encourage States parties with overdue reports to bring them up to date. The preparations for the Fourth World Conference on Women could include, for example, bringing reports up to date. An overall effort within the human rights regime to address reporting generally could also be a factor.

23. The Committee might wish to examine, however, the effect of increased reporting by States parties with overdue reports on the work of the Committee, particularly since the Committee is not able to consider the reports it now receives in a timely fashion.

IV. FEASIBILITY OF DRAFTING AN OPTIONAL PROTOCOL

24. The World Conference on Human Rights recommended that:

> "... New procedures should also be adopted to strengthen implementation of the commitment to women's equality and the human rights of women. The Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women should quickly examine the possibility of introducing the right to petition through the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women ...". 6/

25. The Committee had already been seized of the question, in the light of the work of the expert group meeting on violence against women, which began the process of drafting the draft Declaration on Violence against Women. While not having dealt specifically with an optional protocol that would introduce the right of petition, at its twelfth session, the Committee adopted Suggestion 4 on the World Conference on Human Rights, which recommended that, "with a view to placing the Convention on the Elimination of All Forms of Discrimination against Women on the same footing as other human rights conventions: ... A study should be prepared on the feasibility of drafting optional protocols".

26. The recommendation to draft an optional protocol or not would be made by the competent intergovernmental body, the Commission on the Status of Women. In making its recommendation, it would seem likely that the Commission would wish the views of the Committee on the practical feasibility of such a protocol.

27. If modeled on the optional protocol to the International Covenant on Civil and Political Rights, 7/ a citizen of a State party to the protocol would be able to send a communication to the Committee alleging a violation by that State of the rights set out in the treaty. The Committee would examine the case and render a judgement.

28. Two factors relevant to the Committee's work seem worthy of consideration in examining the feasibility of the protocol. First, because the Convention focuses on the measures taken by a State to eliminate discrimination the process of the adjudication of a complaint might be more complex with the Convention since they would tend to include situations where the State failed to take measures rather than when the State acted. Secondly, the addition of a communications procedure to a Committee whose meeting time is already severely limited would probably make it impossible for the Committee to carry out its mandated tasks. Clearly, the limitation of meeting time would have to be removed before an optional protocol could be implemented.

29. The Committee may wish to express its views on the feasibility and desirability of an optional protocol to establish a petition procedure under the Convention, so that these views can be communicated to the Commission on the Status of Women.

V. SECRETARIAT SERVICING OF THE COMMITTEE AND COOPERATION WITH OTHER TREATY BODIES AND THEIR SECRETARIATS

30. In conformity with article 19 of the Convention, the Secretary-General is responsible for providing the Committee with secretariat servicing. From the beginning of its existence in 1981, the servicing responsibility has been assigned to the Division for the Advancement of Women, which also services the Commission on the Status of Women. The servicing of the other human rights treaty-monitoring bodies has been assigned to the Centre for Human Rights, which also services the Commission on Human Rights.

31. The World Conference on Human Rights underscored the responsibility of the Centre for Human Rights in the coordination of United Nations activities in the field of human rights. It also reaffirmed the role of the Division for the Advancement of Women in promoting the equal rights and status of women. It recommended that "... cooperation and coordination should be strengthened between the Centre for Human Rights and the Division for the Advancement of Women". 8/

32. In its Suggestion 4, the Committee had recommended that "The servicing of the Committee on the Elimination of Discrimination against Women should be provided by both the Centre for Human Rights and the Division for the Advancement of Women of the United Nations Secretariat, and that the meeting places of the Committee should be adjusted accordingly".

33. As of 1 August 1993, the Division for the Advancement of Women has been transferred from Vienna to United Nations Headquarters in New York, as part of the Department for Policy Coordination and Sustainable Development. It is therefore located in a place where the Centre for Human Rights maintains an office and where many of the other human rights treaty bodies hold meetings.

34. Servicing resources for the Committee are allocated, as before, in the programme budget section assigned to the Division for the Advancement of Women. In the past, the Centre for Human Rights has participated in servicing by

providing staff during the Committee's sessions to provide information on developments elsewhere in the human rights regime.

VI. VENUE OF SESSIONS

35. Article 20 of the Convention specifies that the Committee shall meet at United Nations Headquarters or at any other location that the Committee might decide. Since 1981, the Committee has met alternately in New York and in Vienna. Meeting in Vienna was authorized by the General Assembly because the secretariat of the Committee was located at Vienna.

36. The transfer of the Division for the Advancement of Women to New York now means that the secretariat of the Committee is located at United Nations Headquarters. A new mandate would be required if the Committee were to meet at a place other than United Nations Headquarters.

VII. REVIEW OF THE RULES OF PROCEDURE

37. At its twelfth session, the Committee decided to review its rules of procedure, taking into account the fact that the Committee's rules of procedure had been drafted in 1981, that over the years its workload had increased and certain working methods had been adopted to expedite its work.

38. A number of anomalies now exist in the rules of procedure. For example, the rules specify that the agenda for the subsequent session would be prepared by the secretariat in consultation with the Chair of the Committee. In practice, the Committee now adopts its provisional agenda for the next session at the conclusion of each session. However, no clear procedure exists to modify that provisional agenda, should the need arise. Similarly, the institution of standing working groups, around which much of the Committee's work is organized, is not reflected in the rules of procedure. Moreover, the Committee now uses a pre-session working group to prepare questions for States parties presenting second and subsequent reports, a procedure which is not yet reflected in the rules of procedure. Finally, the Committee, at its twelfth session, decided that immediately following each session a summary of that session should be prepared by the Chairperson of the Committee. That summary should be sent to the persons chairing other treaty bodies. No rule yet exists to cover that procedure.

39. Also at its twelfth session, the Committee decided to request extraordinary reports from several States parties, arising from a specific situation in which women's rights protected under the Convention may have been violated. In doing so, "... the Committee put on record its commitment to look into similar grave violations of rights being experienced by women in any part of the world". 9/ The Committee's rules of procedure currently make no provision for these extraordinary requests, including the criteria which might be applied and means by which the requests could be met.

40. The Committee, taking all of these factors into account, may wish to review the rules of procedure, rule by rule, to determine whether they need to be changed in the light of experience.

VIII. FORMULATION OF COMMITTEE COMMENTS ON THE REPORTS OF STATES PARTIES

41. The Committee at present does not have a procedure for formulating comments on the reports of States parties, apart from a summary made by the Chairperson at the end of each consideration. Other human rights treaty bodies have procedures for formulating a Committee position on the situation of the State party in relation with the treaty concerned. For example, the Human Rights Committee designates a rapporteur for each State party that reports, who prepares a draft comment which is then discussed by the Committee, agreed and issued.

42. The Committee may wish to consider how, in the context of the existing time constraints, it could formulate such comments.

IX. REPORTS TO BE CONSIDERED AT THE FOURTEENTH SESSION

43. The list of States parties whose reports have been received but not yet considered by the Committee, in order of receipt, is found as annex I.

X. PROVISIONAL AGENDA FOR THE FOURTEENTH SESSION

44. A draft provisional agenda for the fourteenth session of the Committee is found as annex II.

XI. ISSUES FOR THE NEXT MEETING OF THE CHAIRPERSONS (1994)

45. With reference to paragraph 87 of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, the Committee may wish to give its views concerning steps aimed at coordinating the multiple reporting requirements and guidelines for preparing States reports. The Committee may also wish to study the suggestion that the submission of one overall report on treaty obligations undertaken by each State party would make these procedures more effective and increase their impact.

Notes

1/ A/CONF.157/23, sect. II, para. 39.

2/ A/48/38, sect. I, para. 5.

3/ A/CONF.157/23, sect. II, para. 5.

4/ Resolution 2106 A (XX), annex.

5/ Resolution 39/46, annex.

6/ A/CONF.157/23, sect. II, para. 40.

7/ Resolution 2200 A (XXI), annex.

8/ A/CONF.157/23, sect. II, para. 37.

9/ A/48/38, sect. I, para. 2.

Annex I

STATES PARTIES' REPORTS AVAILABLE FOR CONSIDERATION AT THE FOURTEENTH SESSION, BY ORDER OF RECEIPT

A. Initial reports

Bolivia	8 July 1991
Chile	3 September 1991
Saint Vincent and the Grenadines	27 September 1991
Mauritius	23 February 1992
Paraguay	6 May 1992
Uganda	1 June 1992
Ethiopia	22 April 1993
Iceland	5 May 1993
Tunisia	17 September 1993

B. Second periodic reports

Peru	13 February 1990
Argentina	13 February 1992
Cuba	13 March 1992
Belgium	9 February 1993
Finland	9 February 1993
Dominican Republic	26 April 1993

C. Third periodic reports

Russian Federation	24 July 1991
Norway	25 January 1991
Hungary	4 April 1991
Ukraine	31 May 1991
Canada	9 September 1992
Mexico	1 December 1992
Philippines	20 January 1993
Denmark	7 May 1993

Annex II

PROVISIONAL AGENDA FOR THE FOURTEENTH SESSION OF THE COMMITTEE

1. Opening of the session.

2. Solemn declaration by the new members of the Committee.

3. Election of officers.

4. Adoption of the agenda and organization of work.

5. Background report of the Chairperson on the activities undertaken during the year.

6. Consideration of reports submitted by States parties under article 18 of the Convention.

   Documentation

   Report of the Secretary-General on the status of submission of reports by States parties under article 18 of the Convention

   Reports of States parties to be considered at the fourteenth session

7. Implementation of article 21 of the Convention.

   Documentation

   Note by the Secretary-General on reports provided by specialized agencies

   Report of the Secretariat on analysis of article 2 of the Convention

   Report of the Secretariat on the implications for the work of the Committee of the priority themes of the Commission on the Status of Women

8. Ways and means of expediting the work of the Committee

   Documentation

   Report of the Secretariat on the ways and means of expediting the work of the Committee

9. Consideration of the report of the fifth meeting of persons chairing the human rights treaty bodies and action taken by the General Assembly concerning treaty bodies.

   Documentation

   Report of the fifth meeting of persons chairing the human rights treaty bodies

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UNITED NATIONS

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Convention on the Elimination of All Forms of Discrimination against Women

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Thirteenth session
New York, 17 January-4 February 1994
Item 6 of the provisional agenda*

CONTRIBUTION OF THE COMMITTEE TO INTERNATIONAL CONFERENCES

Outline of the Compendium on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women

Report by the Secretariat

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* CEDAW/C/1994/1.

INTRODUCTION

1. At its thirty-sixth session, in 1992, the Commission on the Status of Women decided to include in the basic documentation for the Fourth World Conference on Women: Action for Equality, Development and Peace (1995), an updated compendium on the achievements of the Convention on the Elimination of All Forms of Discrimination against Women. An original compendium had been prepared as the report of the Committee on the Elimination of Discrimination against Women on the achievements of and obstacles encountered by States parties in the implementation of the Convention on the Elimination of All Forms of Discrimination against Women for presentation to the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (A/CONF.116/13).

2. At its twelfth session, in 1993, the Committee on the Elimination of Discrimination against Women requested the Secretariat to provide for its review at its thirteenth session an outline of the draft of an updated compendium. The compendium is expected to be the Committee's contribution to the work of the Fourth World Conference on Women.

PROPOSED STRUCTURE AND APPROACH TO THE COMPENDIUM

3. The Compendium should illustrate the importance of the Convention on the Elimination of All Forms of Discrimination against Women to the Fourth World Conference on Women. The World Conference should give an impetus to the promotion of internationally recognized human rights and freedoms and reactivate the enforcement of the provisions of the Convention. It should encourage universal ratification of the Convention and the removal of reservations to it.

4. The Compendium will stress that the Convention is the first international legal instrument which addresses the full range of issues related to the role and position of women in society and in the family, combining in a single international instrument the various international conventions concerning the status of women which are already in force. In addition, it will include many of the recommendations which the United Nations Commission on the Status of Women has adopted over the years to define the sphere of women's rights.

5. The Convention is not confined to the respect of equal rights per se, since these are guaranteed under the International Covenants on Civil and Political and on Economic, Social and Cultural Rights. 1/ Rather, its purpose is to ensure the equal enjoyment of these rights. The Convention thus is conceived as an affirmative action programme requiring measures by States parties to ensure that internationally recognized human rights are equally applied to women.

6. By ratifying or acceding to the Convention, States parties have undertaken to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the Convention (art. 24). In accordance with article 18 of the Convention, the States parties have undertaken to submit reports to the Secretary-General of the United Nations for consideration by the Committee on the Elimination of Discrimination against

Women. The analysis in the Compendium should reflect the Committee's work as reflected in the examination of reports of States parties and in the general recommendations adopted by the Committee. It should provide a factual assessment of how the Committee has worked, as well as an assessment of changing trends in the implementation of the Convention by States parties.

7. It is proposed to structure the Compendium in two broad sections. The first would trace the origins of the Convention and analyse the work of the Committee. Its purpose would be to provide a succinct but analytical introduction to the Convention and its monitoring. To date, no such analysis has been made of the Committee and its work. To the extent possible, the section could summarize the travaux préparatoires for the Convention. The second section would analyse the Convention's implementation, article by article, with a view to identifying trends in implementation, obstacles encountered by States parties and innovative measures to accelerate implementation that have been found particularly effective by the Committee.

8. The Compendium should serve, after the Conference, as a basic reference document on the work of the Committee.

A. The work of the Committee on the Elimination of Discrimination against Women: origins and practices

9. The section would begin with a chapter on the origins of the Convention in the work of the Commission on the Status of Women from 1946-1976. This chapter would describe the developments of the concepts of women's rights as reflected in the Convention. A first draft of the chapter has been prepared by a consultant, who headed the United Nations women's programme for many of its early years.

10. The second chapter would concentrate on the institutional aspects of the work of the Committee on the Elimination of Discrimination against Women. It would show how the functions of the Committee have enlarged since its first session, in 1982. It would note how the Committee itself has redefined its terms of reference. By developing an extensive practice of making recommendations and other contributions, the Committee has assumed an important role in the international arena, not only in treaty interpretation but also in contributing to policy development in terms of advancement of women. The chapter would examine the Committee's working methods and decision-making processes. It would also describe the composition of the Committee in terms of its geographic and professional variety. It would also show the Committee's relationship to other international bodies, most importantly to other human rights bodies as well as to the Commission on the Status of Women and the United Nations Secretariat A first draft of this chapter has been prepared by a consultant.

B. Substantive developments in the implementation of the Convention

11. The section would consist of article by article analyses. Each would present the text of the article and would describe how States and the Committee have seen implementation of the article in substantive terms. For the purpose of the present outline, examples of the approach are given for two articles. Suggested outlines for the remaining articles will be available in a background paper.

1. Article 2

12. Article 2 requires States parties to pursue without delay a policy of non-discrimination. The commitment is indicated by a number of actions outlined below. Reservations to article 2 are directed against the Convention and must be seen as incompatible with the purpose and objective of the Convention.

13. Issues to be dealt with in the chapter would include the following:

(a) The principle of equality in national constitutions:

National laws which interpret the constitutional principle of equality;

The direct application of the Convention as national law before the courts;

Ratifications/accessions to international conventions aiming at elimination of discrimination against women;

Restrictions in law to the principle of equality, including those referred to in reservations to articles of the Convention;

Exclusion of women from the protection by national laws (e.g., domestic workers);

(b) Legislative and other measures that prohibit discrimination against women:

Sanctions against the violation of the right to equality and against discriminatory acts;

Authorities responsible for enforcing sanctions, judicial remedies (court decisions), administrative procedures (public prosecutor, ...), arbitrative commission of trade unions, ...;

Cases invoking the constitutional principle of equality;

(c) Legal protection of the rights of women through tribunals:

Appointment of family judges;

Redress of women covered by personal laws;

Cases of sex discrimination filed;

Grievance machinery to assist women;

(d) Procedure laid down for ensuring that public authorities and institutions refrain from discriminatory acts:

Remedies against discriminatory acts of public authorities;

(e) Disciplinary, arbitrary and penal sanctions against discriminatory acts of persons, non-governmental organizations or private enterprises:

Data on sanctions;

(f) Law reforms carried out to modify or abolish existing laws and adopt new laws:

Education and information campaigns on the rights of women.

2. Article 11

14. The economic status of women and the situation of working women is of special concern under the Convention. It shows the extent of women's independent status as individuals. Article 11 covers three basic questions: women in employment, implementation of the right to work without discrimination due to childbirth and protective legislation. The importance of article 11 is underlined by the great number of Conventions adopted by the International Labour Organization (ILO).

15. Issues to be dealt with in the chapter would include the following:

(a) Legal guarantees to ensure equal rights for women and men in employment;

International commitment to equal employment relations (Ratification of the International Covenant on Economic, Social and Cultural Rights, ILO Convention No. 122, ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value);

Restrictions or limitations imposed by law on the enjoyment of equal rights referred to under article 11 of the Convention, including those expressed by reservations of States parties to article 11 and in protective legislation;

Revision or repeal of protective legislation envisaged in light of scientific and technological knowledge;

Legal remedies against discriminatory employment practices including on grounds of marriage and maternity;

(b) The de facto enjoyment of women and men of equal employment rights - the right to work and to the same employment opportunities. Reference will be made to statistics and indicators reflected in United Nations studies, including the update of The World's Women: Trends and Statistics, e.g., economically active population, number and percentage, sex, age groups, types of enterprises run by women as employers; fields in which women are employed; part-time work of women and men; unemployment rate of women and men;

(c) Free choice of profession and employment, the right to the benefits and conditions of service, including women's participation in non-traditional jobs; restrictions for women to work in special areas and fields for protective and other reasons; women in managerial positions; vocational training during employment; measures to accelerate women's equal participation in the economy (development and employment policies, programmes, incentives given to employers to hire and train women in non-traditional occupations); incentives offered by Governments to enrol more women in training courses; vocational training in technical areas;

(d) Equal remuneration for work of equal value. The analysis would underscore what was stated by the Committee, by its general recommendation 13 (1989), that "more remains to be done to ensure the application of that principle in practice, in order to overcome the gender-segregation in the labour market". The Committee recommended that States parties consider the development and adoption of job evaluation systems based on gender-neutral criteria that would facilitate the comparison of the value of those jobs of a different nature, in which women presently predominate, with those jobs in which men presently predominate. It would look at such de facto indicators as income earned by women and men (%) and minimum wages fixed;

(e) Payment guaranteed for women working in family enterprises. It would build on the determination of the Committee by its general recommendation 16 (1991) "that unpaid work constitutes a form of women's exploitation that is contrary to the Convention". The Committee recommended that States parties "take the necessary steps to guarantee payment, social security and social benefits for women who work without such benefits in enterprises owned by a family member";

(f) Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product. It would take account of the fact that the Committee, by its general recommendation 17 (1991) affirmed "that the measurement and quantification of the unremunerated domestic activities of women, which contribute to development in each country, will help to reveal the de facto economic role of women". The Committee recommended that States parties take steps to measure and value the unremunerated domestic activities of women and include them in national accounts;

(g) Social security. The analysis would include:

Coverage of women by social security schemes (in the work-force, part-time work after retirement);

Unemployment assistance provided to men and to women;

Retirement age of men and of women;

Social security and social benefits provided to women who are not employed or work in enterprises owned by a male member of the family;

(h) Health protection at work. The analysis would include;

Safety and health regulations, rooms for rest and for nursing infants;

Measures against sexual harassment;

Availability of child care facilities;

Protection of pregnant women workers;

(i) Measures to prevent discrimination against women on the grounds of marriage or maternity;

(j) Protection by trade unions;

(k) Availability and duration of maternity leave or parental leave, including reintegration of women into the work force after maternity and other leave due to family responsibilities.

Notes

1/ Resolution 2200 A (XXI), annex.